

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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United States of America

Criminal Action No. 2:07-0578-RMG

v.

Albert E. Parish, Jr.

**ORDER**

Before the Court is Albert E. Parish, Jr.'s motion for relief, styled as brought under 28 U.S.C. §§ 455(a), (b)(4), and Rule of Civil Procedure 60(b)(6). (Dkt. Nos. 95.)

Mr. Parish moves to vacate his criminal sentence and be resentenced by a different judge. Rule 60 of the Federal Rules of Civil Procedure does not provide relief from judgment in a criminal action. Rather, a motion brought pursuant to 28 U.S.C. § 2255 is the proper avenue for the relief Mr. Parish seeks. Accordingly, Mr. Parish is **HEREBY** informed of the Court's intent to recharacterize the motion as under § 2255 and warned that the recharacterization will subject subsequent § 2255 motions to restrictions on second or successive motions. The Court further notes that any § 2255 motion is subject to a one-year period of limitations, 28 U.S.C. § 2255(f), unless a basis for equitable tolling of the limitations period is demonstrated.

The Court **HEREBY** provides Mr. Parish with the opportunity to either proceed with his original motion as styled or to accept recharacterization and amend his motion as under 28 U.S.C. § 2255 within sixty (60) days of the date of this Order. If Mr. Parish does not amend his motion by such time, the Court notifies Mr. Parish of its intent to dismiss the current motion as improperly brought under Rule 60.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'R. Gergel', is written over a horizontal line.

Richard Mark Gergel  
United States District Court Judge

February 15, 2019  
Charleston, South Carolina